

Minutes of the Commission Meeting of the Board of Commissioners, Carbon County, State of Utah, held December 2, 2015 at the Courthouse Building, Price, Utah, commencing at 4:30 p.m.

Those present: Casey Hopes, Commissioner, Acting Chair  
Jae Potter, Commissioner  
Jake Mellor, Commission Chair, Excused

Also present: Seth Oveson, Clerk/Auditor  
Lori Perez, Deputy Clerk  
Sandy Lehman, Commission Secretary  
Jeff Wood, Sheriff  
Christian Bryner, Attorney  
Rose Barnes, HR

Clerk's Certificate of Compliance with Open Meeting Law was filed.

Commissioner Hopes welcomed everyone and led the Pledge of Allegiance. Commissioner Mellor is excused. The meeting began at 4:31 p.m.

**1) Carbon County Employee of the Month Recognition – Rose Barnes**

Sheriff Wood presented special awards to Officer Mike Hreinson and Officer Travis Henrie along with the Employees of the Month Recognition presented by Rose Barnes. Travis Henrie received a Sheriff Commendation Award and Mike Hreinson received a Medal of Meritorious Service. The Sheriff Commendation is awarded for an act giving evidence of selfless conduct by an employee during times of crisis or emergency. The Medal of Meritorious Service is awarded for an act that results in the saving of a life for an act involving operational risks to an employee which is performed above and beyond the call of duty. Sheriff Wood said both of these officers went above and beyond the call of duty and saved a life.

Sheriff Wood explained the incident which happened on Sept 23, 2015. Deputies Hreinson and Henrie responded to a call of a female suicide on Wood Hill. They eventually were able to secure her and get her medical help. Without their intervention her life would have been lost. Sheriff Wood expressed his appreciation.

Commissioner Potter and Commissioner Hopes thanked them for their valor and how important this is to the community.

**2) Approval of Minutes**

Commissioner Potter made a motion to approve the minutes from the November 18, 2015 Work Meeting. Commissioner Hopes stepped down and seconded. Motion carried.

**3) Open Sealed Bids for Replacement Tires for Road and Landfill Operations – Daniel Campbell, County Road Supervisor**

Dinosaur Tire	variety of bids arranged in groups and brands	bid acknowledged
GCR Tires (Dec. 2 bid)	variety of bids arranged in groups and brands	bid acknowledged

GCR had submitted prior packets of bids, only the bid dated December 2 was opened, it replaces the other bids. The previous bids remained sealed.

Commissioner Potter made a motion to acknowledge the bids received and give them to Daniel Campbell, Road Department Supervisor, for review and have him bring back his recommendation. Commissioner Hopes stepped down and seconded. Motion carried.

**4) Request for donation to East Carbon Learning and Resource Center – Richard Lee**

Richard Lee gave a copy of the East Carbon Learning and Resource Center's IRS 501(C)(3) determination letter to Attorney Bryner. He explained the data he has gathered concerning the usage of the Resource Center in East Carbon and that they opened a thrift store in October. They have received \$2,500 from the Walmart Foundation which paid for reconnecting their utilities.

They would like to build a ramp onto the front of their building to allow for wheelchair access. He gave the Commissioners three bids received for material for this project. He has approached East Carbon City for funding but has not heard from them. They do have a concrete ramp at the back of their building that is in poor shape. The lowest bid received for materials was from Lowes. He is asking for \$2,700 from the County to fund this project. The labor for construction of the ramp will be done by volunteers. The plans include a roof over the ramp to alleviate problems with snow and ice. This ramp will help the building meet ADA standards but they still do not have automatic door openers and need to enlarge a bathroom.

Commissioner Potter asked if they were still negotiating with East Carbon City. Richard said they met last night but he has not heard what they decided. If they get funding from East Carbon they would continue with other ADA upgrades.

Commissioner Potter recommends that this be funded by East Carbon City and if the County needed to help it would have to go through the County procurement process. Commissioner Potter would like EC Learning Center to be successful but would like to wait and see what East Carbon City will do for them. This can then be reconsidered in the future.

Commissioner Hopes would also like East Carbon City to decide what they are going to do and then the County can address it and have a discussion.

5) **Review and possible approval of the Community Performance Incentive Program (CPIP) Priority C Grant – Emergency Services**

Sheriff Wood said this is another GRI Grant, Part C which allows for tracking of minor offenders outside of the jail. This would alleviate the jail population and cut down on medical expenses inside the jail. This is a 100% grant with no match involved. It would pay for one person, necessary equipment and thirty electronic monitors. This part of the grant is for six months and would be resubmitted in June 2016 for an entire year starting in July.

Commissioner Potter asked about contingency for employment security and how would we keep the employee on if the grant was not renewed. Sheriff Wood said there is no clause, the job would just end. Commissioner Hopes asked if the employee needed to be a deputy. Sheriff Wood would prefer someone post certified.

Commissioner Hopes asked if a new person would need to be hired or could it be someone already on staff. Sheriff Wood is not sure yet and would need to research this.

Commissioner Potter asked if Sheriff Wood had original documents, Sandy said she has the originals and Whitney would take care of processing the paperwork.

Commissioner Potter made a motion to approve the application for the CPIP Part C grant. Commissioner Hopes stepped down and seconded. Motion carried.

6) **Presentation of check to Rita Vigor from Breast Cancer Awareness Softball Tournament proceeds – Frank Ori, Carbon Rec.**

Frank Ori explained that Rita Vigor was diagnosed with breast cancer and treatment costs have mounted. Rochelle Badback asked Carbon Recreation if they would sponsor a softball tournament to raise funds for Rita. Carbon Rec agreed and the event raised \$3,151.39 for the Vigor family. Frank recognized other volunteers including Aleana, Rochelle and her mother, Amanda, Connie Julian, other staff members and USU Eastern ball players who umpired. It was a good experience. They would like this to be an annual charitable tournament. The money raised in the future would be given to the local Cancer Coalition for disbursement. In 2015 Carbon County Employees raised over \$25,000 for local charities.

Frank thanked the Commission for their support. Commissioner Potter expressed his support for Rita and her family. Frank said the tournament was successful and a great event. A Cancer Awareness Tournament will be scheduled for the second Saturday in October going forward.

7) **Report on 6 County Infrastructure – Senator Okerlund**

Sandy said Senator Okerlund is unable to come. Commissioner Potter asked that it be removed from the agenda until it can be rescheduled in January. Commissioner Hopes stepped down and seconded. Motion carried.

8) **Consideration and possible approval of a proposal to restructure public defender services and contracts – Don Torgerson**

Don had given the Commissioners information to review. Don does not have a vested interest to change the public defender services and contracts but there is a concern in the State. Carbon County needs to look at their current process and consider some changes. The Public Defender Services provided locally are as good as the rest of the State. Don's concern is that the case levels are high and the compensation is not commensurate with what is recommended.

Several counties have received GRAMA requests from the ACLU on the local process for public defender services. Grand and San Juan counties did not receive GRAMA requests. Probably because they are among the counties that have managed case loads and pay at a greater rate.

The concern is that Carbon County's case loads are increasing, even though growth is not. Heroin drug addiction increase nationwide is a growing problem. This is reflected in the case loads handled by the public defenders office. Don reviewed the statistics for caseloads handled by the public defenders.

Don's proposal is to use the money already in the budget and reallocate it in a way that makes more sense. There is about \$40,000 a year that is just waiting to be billed. Third position conflict attorneys are billing that for their hourly rate without regard to any contract they have that might structure or control the cost without any supervision or case assignment. This money could be used to fund a third position. Three contracted positions would take care of almost every case and conflict case that arises in district court and justice court. The proposal that makes the most sense is to begin to recoup fees from defendants that are convicted. They could not afford major fees but Don is suggesting that there should be accountability.

People are entitled to good counsel; and Don has committed his career to get that, but they are not entitled to free counsel. A small recoupment fee is a buy in by the defendants. This would allow the County to fulfill its obligation to provide good competent counsel rather than overworked and ill-equipped counsel. Given the case loads, he estimates a recoupment value between \$225,000 a year, half of which can be recovered. Grand and San Juan counties impose a \$250 fee for each case.

Don explained the practice of other counties and Justice Courts. District Court does not impose a fee very often. If the County Attorney charged for counsel as part of the policy for settlement, recoupment would not be a problem. The statute is written for recoupment fees to be paid first. Don explained. Some fees would be lost when the person is sent to prison. Don's experience as a public defender is if a client pays him something they are easier to work with and more appreciative.

The amount that Don is proposing to be applied to improve the public defenders system is fully recoupable by recovering these fees and reallocating money that is already in the public defenders budget. This is not a complete solution but this will allow the gathering of statistics to show what is going on.

Don's proposal asks that the County fund the change for a year or two; the money would be used to improve the system with the understanding that most of the funding would come back as the fees are applied to defendants. The statute is pretty heavy handed and nonpayment of these fees could be penalized.

Don explained the original version of the 6<sup>th</sup> amendment report, released to the County Attorney in May, which contained complaints about recoupable fees. They do not show up in the final version because Utah prosecution council told them that this is important and you do not need to ignore the value that they are receiving by this process. The Utah Prosecution Council realizes its value. Don values the fees because it creates buy in and encourages the client to contact him. He thinks it is a valuable process and he values the service that he provides and that the County should be able to recover some of it.

His proposal would be to fund a third public defender position, using the money already in the budget and that the salaries are adjusted for fair compensation. The work should be allocated equally among the three to cover the conflicts; the lead public defender should be appointed to track the numbers in order to get a picture of the health of the County and how much work is done. It may require additional staff but his proposal provides a way to get

some of the funding back. Don feels that the ACLU will look at Carbon County's contract because of the increase in cases.

Commissioner Hopes said that the prosecution side is also asking for help. He asked about conflicts between the three Attorneys and how often would more attorneys need to be hired. Don explained that the proposal takes into consideration conflicts and the reassigning of multiple cases against one defendant. This can eliminate the need for conflict attorneys. With three public defenders sharing the load the cases can be managed and paid equally. Drug court and juvenile court are separate contracts and would be paid differently.

Commissioner Potter asked if Don had talked to the County Attorney's office. He had and he feels they would be on board. Jeremy Humes said overall it's a good proposal. The discussion continued.

Don feels that the system is at a point where there has to be a change. Commissioner Potter said this is a large part of this discussion; someone has to bear that responsibility. Do we pass it back to the tax payer or on to those who are receiving those services? Don explained what Colorado does. Utah does not have a State funded public defense; it is funded by the individual county.

Commissioner Hopes asked how the allocation of dollars would work because the prosecution has the burden of proof. As a defense attorney, Don has to do his own investigations out of his own pocket. When you consider that the prosecution has resources including an investigator and the work completed by law enforcement and these resources are not available to the public defenders. So the results favor the prosecution because of the resource available. However, the defense should be entitled to the same resources.

The burden of countering the evidence is a problem along with conflicts which do not apply to public defenders. Having county public defenders designated office would not work because it would be county funded with 3<sup>rd</sup> and 4<sup>th</sup> place conflicts. You would have to have separate offices for prosecution.

Commissioner Potter asked what constitutes an individual to qualify for a public defender. Don said they have to have committed a crime that can result in jail; they have to meet a financial level that is 125% below the poverty level, and must submit a sworn statement of their income to the judge. He explained further.


Commissioner Potter thanked Don for his time and the information presented.

**9) Review and Approval of Departmental Reports**

Commissioner Potter made a motion to adjourn, Commissioner Hopes stepped down and seconded. Motion carried.

The meeting adjourned at 5:34 p.m.

ATTEST:

  
Seth Oveson, County Clerk/Auditor

